

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

LIQWD, INC. and OLAPLEX LLC,

Plaintiffs,

v.

L'ORÉAL USA, INC., L'ORÉAL USA  
PRODUCTS, INC., L'ORÉAL USA S/D,  
INC., and REDKEN 5<sup>TH</sup> AVENUE, NYC,  
L.L.C.,

Defendant.

**CIVIL ACTION NO. 17-14-JFB-SRF**

**MEMORANDUM AND ORDER**

This matter is before the Court on the objections, D.I. 615, to the Memorandum and Order of the Magistrate Judge, D.I. 610. The magistrate judge reviewed submissions regarding proposed modifications of the case schedule. She granted the motion in part. In this patent infringement action filed by plaintiffs Liqwd, Inc. and Olaplex LLC (together, "Olaplex") against defendants L'Oreal USA, Inc., L'Oreal USA Products, Inc., L'Oreal USA S/D, Inc., and Redken 5th Avenue NYC, LLC (collectively, "L'Oreal"), Olaplex alleges infringement of United States Patent Nos. 9,498,419 ("the '419 patent") and 9,668,954 ("the '954 patent"). (D.I. 262 at ¶¶ 90-138).

**STANDARD OF REVIEW**

The standard of review is governed by [28 U.S.C. § 636\(b\)\(1\)\(C\)](#) and [Federal Rule of Civil Procedure 72\(b\)](#). The district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made" and "may also receive further evidence or recommit the matter to the magistrate judge with instructions." [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Similarly, Rule 72(b)(3)

requires de novo review of any recommendation that is dispositive of a claim or defense of a party.

The Supreme Court has construed the statutory grant of authority conferred on magistrate judges under [28 U.S.C. § 636](#) to mean that nondispositive pretrial matters are governed by § 636(b)(1)(A) and dispositive matters are covered by § 636(b)(1)(B).

*Gomez v. United States*, 490 U.S. 858, 873-74 (1989); see also [Fed. R. Civ. P. 72\(a\)](#). Under subparagraph (B), a district court may refer a dispositive motion to a magistrate judge “to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition.” [28 U.S.C. § 636\(b\)\(1\)\(B\)](#); see *EEOC v. City of Long Branch*, 866 F.3d 93, 99–100 (3d Cir. 2017). The product of a magistrate judge, following a referral of a dispositive matter, is often called a “report and recommendation.” *Id.* “Parties ‘may serve and file specific written objections to the proposed findings and recommendations’ within 14 days of being served with a copy of the magistrate judge’s report and recommendation.” *Id.* (quoting [Fed. R. Civ. P. 72\(b\)\(2\)](#)).

“If a party objects timely to a magistrate judge’s report and recommendation, the district court must ‘make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’” *EEOC*, 866 F.3d at 99 (quoting [28 U.S.C. § 636\(b\)\(1\)](#)).

## **DISCUSSION**

The defendants requested that the magistrate judge modify the case schedule. The magistrate judge granted, in part, defendant’s request. D.I. 610 at 2-3, ¶ 3. The

magistrate judge outlined her reasons for allowing the minor adjustments, applying the good cause standard. *Id.* at 3-4.

Plaintiffs filed objections to the findings of the magistrate judge, arguing that the magistrate judge found no good cause to grant the modification. Further, plaintiffs argue that the delays and need for an extension was caused by defendants who intentionally put themselves in this position. Thus, argues plaintiffs, this delay is prejudicial to them. Defendants disagree and contend that the magistrate judge's order should be affirmed. D.I. 637.

The Court has carefully reviewed each of the objections by the plaintiffs. The Court finds no error as a matter of law or fact. The magistrate judge correctly found that L'Oreal demonstrated good cause warranting the slight modifications in the case schedule. The Court finds the magistrate judge should be affirmed.

THEREFORE, IT IS ORDERED THAT:

1. The objections of the plaintiffs, D.I. 615, are overruled;
2. The report and recommendation of the magistrate judge, D.I. 610, is adopted and affirmed in its entirety.

Dated this 10<sup>th</sup> day of May 2019.

BY THE COURT:

s/ Joseph F. Bataillon  
Senior United States District Judge